

Original Title Page

THE TRADELENS AGREEMENT

A Cooperative Working Agreement

FMC Agreement No. 201328

Expiration Date: None

This Agreement Has Not Been Published Previously

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**ARTICLE 1: NAME OF THE AGREEMENT**

This agreement shall be known as the TradeLens Agreement (“the Agreement”).

**ARTICLE 2: PURPOSES OF THE AGREEMENT**

The purpose of this Agreement is to authorize the parties to cooperate with respect to the provision of data to a blockchain-enabled, global trade digitized solution that will enable shippers, authorities and other stakeholders to exchange information on supply chain events and documents (the “Platform”) and to collaborate with the Platform Providers (as hereinafter defined) on products to be offered on the Platform and the marketing of same.

Initially, the Platform shall be capable of performing the following functions: (i) providing application programming interfaces for the publication of and subscription to event data describing the physical progress of cargo through the supply chain and associated milestones, including events related to documents; (ii) storing documents in structured and unstructured form and sharing those documents with permissioned parties in the supply chain; and (iii) providing user interfaces and application programming interfaces for viewing event data, milestones, and documents, and managing users and access permission.

**ARTICLE 3: PARTIES TO THE AGREEMENT**

The parties to the Agreement (hereinafter referred to individually as “Party” jointly as the “Parties”) are listed in Appendix A hereto. International Business Machines Corporation and Maersk GTD Inc. are not parties to this Agreement, but are hereinafter referred to jointly as the “Platform Providers.”

**ARTICLE 4: GEOGRAPHIC SCOPE**

The scope of this Agreement is the trade between all ports in the United States and all ports worldwide (the “Trade”), including cargo movements originating and/or terminating at inland locations in the United States and all foreign countries.<sup>1</sup>

**ARTICLE 5: AUTHORITY**

5.1 The Parties are authorized to discuss and agree, among themselves and with the Platform Providers, on the terms and conditions of the Parties’ provision of data to the Platform, permitted uses of such data, and input into products and services to be offered on the Platform and the marketing of same.

5.2 The Parties are authorized to discuss and agree, among themselves and with the Platform Providers, on the data to be provided to the

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<sup>1</sup> Although the activities described herein shall also be undertaken with respect to trades between countries other than the United States, such trades are not within the scope of the U.S. Shipping Act or the jurisdiction of the Federal Maritime Commission (“FMC”) and therefore are not included in this Agreement.

Platform Providers by each of the Parties, the terms and conditions (including timing) applicable to the provision, storage, protection, and use of data, and any services to be provided by the Platform Providers in furtherance of the operation or development of the Platform and any terms and conditions relating to same.

5.3 The Parties are authorized to discuss and agree, among themselves and with the Platform Providers, on the terms and conditions of, and the use of, bills of lading and other transportation-related documents in blockchain and/or other electronic format.

5.4 It is the intent of the Parties that the authority contained in this Agreement be interpreted, exercised, and implemented in a manner that is consistent with applicable law, including Article 101 TFEU and the U.S. Shipping Act of 1984, as amended. In furtherance of the foregoing, this Agreement does not authorize the Parties to discuss or agree upon: (a) the vessel capacity to be deployed by any of them; or (b) terms and conditions under which any Party provides ocean transportation services to its customers. It is understood and agreed that the data to be discussed by the Parties shall not include rates, charges or other terms and conditions agreed upon by a Party and its customer(s).

5.5 The Parties are authorized to discuss, agree upon and execute written agreements, among themselves and with the Platform Providers, setting forth the details of agreements reached hereunder. Any such further agreements shall be reflected in an amendment to this Agreement, if the filing of such an amendment is legally required.

5.6 It is understood that to the extent any non-regulated entity participates in activities under this Agreement, such participation does not bring such entity(ies) under the FMC's jurisdiction, nor does it confer antitrust immunity on the non-regulated entity under the Shipping Act; provided that the participation of such non-regulated entities in activities under the Agreement shall not affect the regulatory jurisdiction of the FMC or the antitrust immunity conferred by the Shipping Act on the Parties for activities under this Agreement.

#### **ARTICLE 6: ADMINISTRATION OF AGREEMENT**

6.1 The Platform shall be maintained and operated by the Platform Providers.

6.2 This Agreement shall be administered by the Parties. The Parties may from time to time establish such committees or working groups as they deem necessary or desirable, which committees or working groups may include representatives of the Platform Providers.

6.3 Upon action taken by the Parties hereunder, Agreement counsel is hereby authorized to prepare amendments to this Agreement and information relating thereto, and to execute and file same with the Federal Maritime Commission.

#### **ARTICLE 7: MEMBERSHIP**

7.1 Membership to this Agreement is limited to the Parties; provided, however, that new parties may be added upon the agreement of the then-existing Parties by a vote of unanimous less one. Upon admission of a new

member, an amendment to this Agreement adding that carrier as a Party hereto shall be filed with the Federal Maritime Commission.

7.2 Ocean common carriers that agree directly with the Platform Providers to provide data to the Platform shall not become Parties to this Agreement. Carriers that are not ocean common carriers in the U.S. trades may provide data to the Platform, but shall not become Parties to this Agreement.

7.3 No Party to this Agreement shall be prohibited from participating in any other e-commerce initiative.

#### **ARTICLE 8: VOTING**

Amendments to this Agreement shall require the unanimous agreement of the Parties. There shall be no formal voting on other matters under this Agreement, with decisions reached by a majority consensus only. No Party shall be required to adhere to any consensus reached hereunder, except to the extent it enters into a binding agreement with the Platform Providers.

#### **ARTICLE 9: DURATION, TERMINATION, AND EXPULSION**

9.1 This Agreement shall become effective on the date it enters into effect under the U.S. Shipping Act of 1984, as amended, and shall remain in effect indefinitely thereafter. This Agreement may be terminated by the unanimous vote of the Parties, less one.

9.2 Any Party may resign from this Agreement by providing not less than seven (7) days' advance written notice to the other Parties, with a copy to

the Platform Providers. Any Party which terminates its participation in the Platform shall be removed from this Agreement.

**ARTICLE 10: GOVERNING LAW/DISPUTE RESOLUTION**

10.1 This Agreement and the rights and obligations of the Parties hereunder shall be governed by, and construed in accordance with, the internal laws of the State of New York applicable to agreements made and to be performed entirely within such State, without regard to principles of conflict of laws.

10.2 All disputes arising out of or in connection with this Agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (the “**ICC Rules**”), except as may otherwise be specified herein or by agreement of the Parties. The arbitration shall be conducted by three arbitrators. All persons chosen as arbitrators shall be lawyers with at least fifteen (15) years of professional experience, and will be independent of the Parties, and impartial. Each Party shall nominate one arbitrator, and the arbitrators nominated by the Parties shall jointly appoint an independent chairman. If no chairman is appointed within thirty (30) days of the appointment of the second arbitrator, the chairman shall be appointed by the International Chamber of Commerce, in accordance with the ICC Rules. The place of arbitration shall be New York, New York. The arbitration shall be conducted in English. The arbitrators shall award to the prevailing Party, if any, as determined by the arbitrators, its reasonable attorneys’ fees and costs,



including the costs of the arbitration. Judgment on any final arbitral award may be entered and enforced in any court of competent jurisdiction. The Parties shall keep confidential: (i) the fact that any arbitration occurred; (ii) any awards awarded in the arbitration; (iii) all materials used, or created for use in the arbitration; and (iv) all other documents produced by another Party in the arbitration and not otherwise in the public domain, except, with respect to each of the foregoing, to the extent that disclosure may be legally required (including to protect or pursue a legal right) or necessary to enforce or challenge an arbitration award before a court or other judicial authority. The arbitrators shall have no authority to award damages excluded by this Agreement, damages in excess of the limitations contained in this Agreement or injunctive relief. Nothing in this Agreement shall prevent any Party from resorting to judicial proceedings if interim or provisional relief from a court is necessary either to prevent material prejudice to any Party or to third parties, or to prevent or stop a breach of any confidentiality provisions or intellectual property rights. Nothing in this Agreement shall prevent either Party from resorting to judicial proceedings as necessary to determine the validity or ownership of any copyright, patent or trademark owned or asserted by a Party to the Agreement, or by any parent company, subsidiary, or affiliate under common control of any Party.

## **ARTICLE 11: GENERAL PROVISIONS**

11.1 This Agreement does not create a joint venture, partnership, employment relationship or other agency relationship between or among any of the Parties.

11.2 No Party may assign its rights or delegate any of its duties under this Agreement; provided that (i) each Party may assign this Agreement with the other Parties prior written consent (such consent not to be unreasonably withheld) to any other affiliate of such Party; and (ii) each Party may assign this Agreement without consent to a wholly owned subsidiary that is formed or organized in the same country as such Party. Any unauthorized assignment of this Agreement is void.

11.3 The obligations of each Party under this Agreement are several and not joint, and the rights of each Party shall not be dependent in any way on the performance by any other Party of its obligations. Nothing in this Agreement, express or implied, is intended to confer upon any person other than the Parties and, to the extent provided by this Agreement, their affiliates, their permitted successors and assigns and their legal representatives, any rights or remedies under or by reason of this Agreement.

11.4 If any term or provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other terms and provisions of this Agreement shall nonetheless remain in full force and effect. Upon a determination that any term or provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

11.5 Any amendment or modification of this Agreement shall be in writing and shall be signed by authorized representatives of the Parties. No approval, consent or waiver will be enforceable unless signed by the granting party. The failure of any Party to seek redress for breach of, or to insist upon the strict performance of, any provision of this Agreement shall not prevent a subsequent act, which would have originally constituted a breach, from having the effect of an original breach.

11.6 This Agreement may be executed in one or more counterparts, all of which, when taken together, shall be considered one and the same agreement, and shall become effective when one or more such counterparts have been executed by each of the Parties and delivered to the other Parties. Each Party need not execute the same counterpart of this Agreement. Delivery

of an executed counterpart of a signature page to this Agreement by facsimile or electronic (including .pdf) transmission shall be effective as delivery of a manually executed counterpart of this Agreement. Once this Agreement is executed, any reproduction of this Agreement made by reliable means (for example, photocopy, facsimile or .pdf copy) is considered an original, to the extent permissible under applicable Law, and all products and services referred to herein are subject to it.

11.7 All notices will be in writing and will be valid if sent by:

- 11.7.1 registered or certified mail, return receipt requested, postage paid;
- 11.7.2 by facsimile (provided the receipt of the facsimile is evidenced by a printed record of completion of transmission);
- 11.7.3 by express mail or courier service providing receipt of delivery; or
- 11.7.4 by email, return receipt requested.

Notice will be effective upon receipt. All notices should be addressed as follows:

<b>CMA CGM S.A.</b>	<b>HAPAG-LLOYD AG</b>
4, quai d'Arenc 13235 Marseilles Cedex 02, France Email: <a href="mailto:ho.garnoux@cma-cgm.com">ho.garnoux@cma-cgm.com</a>	Ballindamm 25 20095 Hamburg, Germany Email: <a href="mailto:beate.flach@hlag.com">beate.flach@hlag.com</a>
<b>MAERSK A/S</b>	<b>MSC MEDITERRANEAN SHIPPING COMPANY S.A.</b>
Esplanaden 50 DK-1263 Copenhagen, Denmark Attn: Head of Legal Email: <a href="mailto:Casper.munch@maersk.com">Casper.munch@maersk.com</a>	12-14 Chemin Rieu 1206 Geneva Switzerland Email: <a href="mailto:CH001-corporatelegal.notices@msc.com">CH001-corporatelegal.notices@msc.com</a>
<b>OCEAN NETWORK EXPRESS PTD. LTD.</b>	
7 Straits View Marina ONE East Tower, #16-01 Singapore 018936 Email: <a href="mailto:ghq.legal@one-line.com">ghq.legal@one-line.com</a>	

Any Party may change its address by a notice given to the other Parties in the manner set forth above.

[SIGNATURE PAGE FOLLOWS]

The TradeLens Agreement  
FMC Agreement No.

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have caused this Agreement to be  
executed by their duly authorized representatives as of this \_\_ day of December,  
2019.

CMA CGM S.A.

Hapag-Lloyd AG

By: \_\_\_\_\_  
Name: RAJESH KRISHNAMURTHY  
Title: E.V.P

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Maersk A/S

MSC Mediterranean Shipping  
Company S.A.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Ocean Network Express, Ltd.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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CMA CGM S.A.

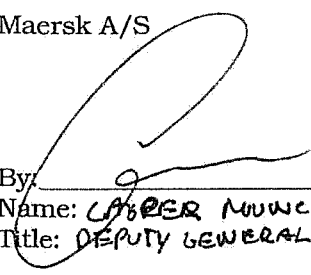
Hapag-Lloyd AG

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

Maersk A/S

MSC Mediterranean Shipping  
Company S.A.

By:   
Name: LARS MUNKELT  
Title: DEPUTY GENERAL COUNSEL

By: \_\_\_\_\_  
Name:  
Title:

Ocean Network Express, Ltd.

By: \_\_\_\_\_  
Name:  
Title:

The TradeLens Agreement  
FMC Agreement No.

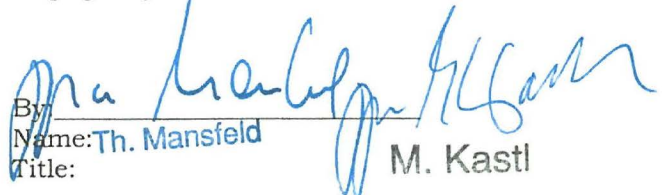
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2019.

CMA CGM S.A.

By: \_\_\_\_\_  
Name:  
Title:

Hapag-Lloyd AG

By:   
Name: Th. Mansfeld  
Title: M. Kastl

Maersk A/S

By: \_\_\_\_\_  
Name:  
Title:

MSC Mediterranean Shipping  
Company S.A.

By: \_\_\_\_\_  
Name:  
Title:

Ocean Network Express, Ltd.

By: \_\_\_\_\_  
Name:  
Title:



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CMA CGM S.A.

Hapag-Lloyd AG

By: \_\_\_\_\_  
Name:  
Title:

Maersk A/S

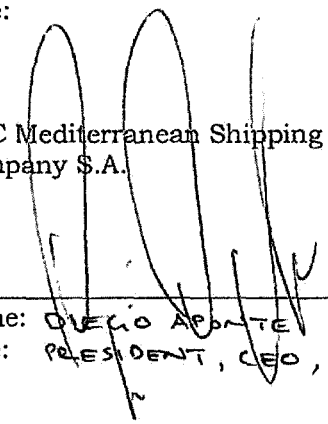
By: \_\_\_\_\_  
Name:  
Title:

Ocean Network Express, Ltd.

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

MSC Mediterranean Shipping  
Company S.A.

By: \_\_\_\_\_  
Name:   
Title: PRESIDENT, CEO, DIRECTOR

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CMA CGM S.A.

Hapag-Lloyd AG

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:


Maersk A/S

MSC Mediterranean Shipping  
Company S.A.

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

Ocean Network Express, Ltd.

By:   
Name: Kosuke Wada  
Title: Senior Vice President

**PARTIES TO THE AGREEMENT**

CMA CGM S.A.  
4, quai d'Arenc  
13235 Marseilles Cedex 02, France

Hapag-Lloyd AG  
Ballindamm 25  
20095 Hamburg, Germany

Maersk A/S  
Esplanaden 50  
DK-1098, Copenhagen, Denmark

MSC Mediterranean Shipping Company S.A.  
12-14 Chemin Rieu  
1206 Geneva  
Switzerland

Ocean Network Express Pte. Ltd.  
7 Straits View  
16-01 Marina One East Tower  
Singapore 018936